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February 3, 2016

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: <u>Notice of Lifeline Connects Coalition Oral *Ex Parte* Presentation; WC Docket Nos. 11-42, 09-197, 10-90</u>

Dear Ms. Dortch:

On February 1, 2016, Brian Lisle of Telrite Corporation dba Life Wireless; Jeni Kues of i-wireless, LLC dba Access Wireless; Melissa Slawson of Blue Jay Wireless, LLC; Jeff Ansted of American Broadband & Telecommunications Company; Chuck Campbell of CGM, LLC; and John Heitmann, Joshua Guyan and Jameson Dempsey of Kelley Drye & Warren LLP met on behalf of the Lifeline Connects Coalition (Coalition)[1] with Rebekah Goodheart, Legal Advisor to Commissioner Mignon Clyburn, to discuss the Lifeline program and the Second Further Notice of Proposed Rulemaking (FNPRM).[2]

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[1] The members of the Lifeline Connects Coalition are i-wireless, LLC, Telrite Corporation, Blue Jay Wireless, LLC, and American Broadband & Telecommunications Company. Brian Lisle, Jeni Kues, Melissa Slawson, Jeff Ansted, Jameson Dempsey and Chuck Campbell participated by phone.

[2] *See Lifeline and Link Up Reform and Modernization*, *Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015) (Second FNPRM). In support of our positions, we provided the following supporting materials to Ms. Goodheart during the meeting: (1) Lifeline Connects Coalition - Lifeline Modernization Principles (Jan. 2016) and (2) Access Wireless Survey – "How would paying a monthly fee for your Lifeline service impact you?" (Jan. 2016). These materials are attached to this letter as an **Exhibit**.

During the meeting, the Coalition emphasized the importance of retaining fully subsidized "free" service plan options to the continued success of the Lifeline program. In its modernization efforts, the Commission should neither directly impose a minimum charge requirement (so-called "skin in the game"), nor indirectly impose a minimum charge through a quantitative minimum service standard, which would effectively require ETCs to impose a charge on consumers.[3]

Today, approximately 11 million low-income American households—or 85 percent of all Lifeline program participants—rely on a "free" Lifeline service plan. Under a co-pay or other minimum charge model, millions of these low-income Americans would be priced out of the Lifeline program, leaving them with nowhere to turn for vital connectivity. The most economically disadvantaged of these households simply could not afford a charge for service. The stories and statements of nearly a dozen such low-income Access Wireless customers are provided in the **Exhibit**. Imposing a co-pay requirement would do nothing to address the affordability challenges faced by the most vulnerable consumers. Further, the comments filed by the Center for Budget and Policy Priorities (CBPP) and Professor David Super of Georgetown University Law Center both demonstrate that co-pays have been tried in the past in the Medicaid and SNAP programs with disastrous results.[4] In Medicaid, CBPP reports that "low-income adults reduced episodes of effective care by 41% when faced with copayments."[5] Further, when the co-pay requirement in SNAP was eliminated in the 1970s, "participation increased tremendously."[6]

Even those households that could make a modest payment in some or even most months would face significant burdens. Fluctuations in income or necessary expenses mean that many low-income consumers would not be able to afford the charge every month, which could lead many Lifeline-eligible households into an endless cycle of disconnection and reconnection.[7] In the

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[3] As the Coalition has stated in its previous communications with the Commission, if the Commission sees the need to set minimum service standards, those standards should focus on the quality, not the quantity, of Lifeline service. Specifically, the Commission could require wireless ETCs to provide 3G or above service rather than a minimum number of minutes, texts or megabytes per month. In this way, the Commission can set a service-level baseline without impinging on the ability of consumers to obtain the service that best meets their needs.

[4] *See* Comments of Professor David Super, Georgetown University Law Center, WC Docket Nos. 11-42, 09-197, 10-90, at 16-17 (Aug. 31, 2015) (Professor Super Comments); Comments of the Center on Budget and Policy Priorities, WC Docket Nos. 11-42, 09-197, 10-90, at 10-11 (Sept. 29, 2015) (CBPP Comments).

[5] CBPP Comments at 10.

[6] *See id.* at 11.

[7] As the Pew Research Center found in a recent study, approximately 44 percent of smartphone-owning adults with household income less than $30,000 have canceled or cut off service for a period of time because maintaining their service was a financial burden. *See* Aaron Smith, "Chapter One: A Portrait of Smartphone Ownership," Pew Research Center (Apr. 1, 2015),

Access Wireless survey of 5,000 customers, 58 percent of respondents indicated that they have inconsistent income and live paycheck-to-paycheck. Further, many Lifeline subscribers are unbanked, with some Coalition members seeing unbanked rates of 77 percent or even higher in their customer base.[8] Many of these unbanked subscribers would have to use money transfer services or purchase money orders to make minimum payments, which would "significantly rais[e] the effective cost of Lifeline services" in excess of any co-payment.[9] In addition, a co-pay requirement likely would be considered a retail transaction and result in end user revenues, which could trigger many state-level 911 fee requirements. ETCs would either need to bear the cost of those fees themselves or pass them through to subscribers, potentially decreasing the value of the subsidy to eligible consumers.

Minimum charges—regardless of how they are imposed— also would have substantial negative impacts on ETCs. Managing thousands or millions of small payments would impose significant new costs on those ETCs that do not currently have customer billing systems in place (because they have relied, as have their subscribers, on a no cost to consumer model). Further, Lifeline providers have no desire to collect cash at Lifeline enrollment events with the resulting security concerns and tracking and collection concerns. The Coalition members estimate it would cost them more in security and logistics to collect small fees than the fees would bring in.

In addition, because minimum payments would increase subscriber churn, they would balloon administrative costs—both for ETCs and for the program as a whole—associated with de-enrolling and re-enrolling customers. Increased subscriber churn would in turn lead to less value for subscribers, since it lowers ETCs' incentives to provide advanced handsets (e.g., smartphones) and other value-adds, throttling the potentially transformative power of Lifeline service for low-income Americans. Increased costs and diminished subscriber value would create disincentives for subscribers to enroll in Lifeline in the first place, with negative repercussions for the success of the program as a whole.

In our meeting, we also reiterated our opposition to any budget that would serve as a cap, and discussed the budget proposals set forth in the submissions of the CBPP and Professor

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available at http://www.pewinternet.org/2015/04/01/chapter-one-a-portrait-of-smartphone-ownership/.

8 *See* e.g., **Exhibit** (Access Wireless survey noting that 77 percent of respondents to its survey indicated they did not have a bank account or credit/debit card).

9 *See Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶¶ 266-268 (rel. Feb. 6, 2012) (2012 Lifeline Reform Order).

Super.[10] Specifically, we noted that the Coalition could support a budget that, when reached, triggers a Bureau-led review to determine the cause of increased enrollments—e.g., a new recession, issues related to the new third-party verifier or verifiers (e.g., USAC-certified verifiers and state databases), or that the program has been successful in promoting broadband and voice service adoption among eligible low-income Americans. Such a review process should include an opportunity for public comment and conclude with a Bureau-level report to the Commission. Any such budget should be set high enough to accommodate an increase in participation rates in connection with more competition and the inclusion of broadband as a supported service, but need not be unrealistically high (e.g., full participation). The Coalition also addressed a number of other issues consistent with its comments in this proceeding.

- The Commission's solution to address the "homework gap" should be technology and carrier neutral. Any proposed solution, however, should recognize the essential role that smartphones play in closing the gap, including by providing parents with the ability to monitor homework assignments and research activities and to communicate with educators. Further, hotspot-capable smartphones also enable parents and children to access desktop-friendly educational applications through tethering.

- The Commission should preserve consumers' ability to select voice-only service options, and should not consider any sunset proposal for mobile voice offerings prior to affirmatively demonstrating near-universal adoption of voice over broadband wireless service offerings.

- The Commission should impose a 12-month benefit port freeze under which Lifeline customers can always switch service providers by de-enrolling with their current provider first (as can be done under the current 2-month benefit port freeze).

- The Commission should retain the current qualifying programs for Lifeline, including income-based eligibility, and expand such programs to include programs targeted to serve low-income and homeless Veterans, rather than relying on a single program, such as SNAP. Indeed, 17 percent of eligible Lifeline consumers are qualified for Lifeline only based on income and should not have to participate in another program in order to apply for Lifeline.[11]

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[10] *See* Professor Super Comments at 18-20 and CBPP Comments at 11-12.

[11] *See* CBPP Comments at 40, 43 ("Based on information from the CPS, more than 80 percent of the Lifeline-eligible population participated in one of the seven programs that confers Lifeline eligibility that we could model, but almost 20 percent, despite having income below 135 percent of the federal poverty level would not be able to receive Lifeline based on participation in one of these programs. As a result, it is important that the Commission maintain a way for very low-income

- The Commission should streamline, but not eliminate the ETC designation requirement to make sure that Lifeline providers are at least minimally vetted. The Coalition expressed support for a technology- and carrier-neutral national ETC designation process, which if developed, should be available to wireline and wireless voice and broadband providers alike to avoid giving certain providers an advantage.

- The Commission should recognize the fact that the Lifeline program operates on 1.3 percent administrative costs and boasts an improper payment rate of 0.44 percent. A national third-party verifier solution must not materially compromise these successes. A hybrid approach that leverages a variety of trusted third-party verification solutions (including real-time solutions and state databases) can effectively address real and perceived waste, fraud and abuse, while keeping program administration costs low and accuracy of payments high.[12]

    - A single-source national verifier, on the other hand, would balloon administrative costs.[13] By way of analogy, the California Public Utilities Commission (CPUC), which uses a single-source Lifeline administrator, has spent over $86.5 million in Administrator costs since May 2006—or $9.6 million per year on average.[14] California Lifeline enrollments constitute less than one-fifth of all Lifeline enrollments (2.2 million of 13.4 million or 16 percent).[15] Extrapolating the California Administrator costs to the entire federal Lifeline program and excluding the initial cost of establishing a national verifier (which itself would be substantial), maintaining a single-source federal verifier could add $58.4 million in administrative costs to the Lifeline program each year, nearly quadrupling program administration

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households to demonstrate their eligibility by documenting their income, without needing to participate in one of the federal programs.”).

[12] *See* Comments of the Lifeline Joint Commenters, WC Docket Nos. 11-42, 09-197, 10-90, at 25-42 (Aug 31, 2015); Reply Comments of the Lifeline Joint Commenters, WC Docket Nos. 11-42, 09-197, 10-90, at 31-38 (Sept. 30, 2015) (“Joint Commenters oppose a single, national eligibility verifier because it would be too inflexible and expensive, producing outcomes no better or perhaps significantly worse that the current process for higher costs.”).

[13] *See* Joint Commenters Comments at 25-28; Joint Commenters Reply Comments at 31-36.

[14] *See* Comments of the CPUC, WC Docket Nos. 11-42, 09-197, 10-90, at 30 (Sept. 24, 2015); *see also* Public Utilities Commission of the State of California, Approval of Fiscal Year 2016-2017 California LifeLine Program Budget in Compliance with Public Utilities Code Section 273(a), Resolution T-17499, 5, 9-10 (Oct. 22, 2015).

[15] *See* CPUC Comments at 19 (as of July 31, 2015, approximately 2.2 million households received California LifeLine discounts); *see also* FCC 2015 Universal Service Monitoring Report, Table 1.11, p. 20, *available at* https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports.

costs from $20 million per year to $78.4 million per year (or over 5 percent of the federal Lifeline program).

  - Moreover, a single-source national verifier is likely to impose additional costs because it will be less efficient and less effective than the Coalition's proposed national verifier solution. For example, the California Administrator recertification success rate is a fraction of the success rate that many ETCs achieve. The California Administrator's performance on recertification has needlessly forced eligible subscribers from the program, imposing significant costs on those consumers, ETCs and the Lifeline program itself.

- The Commission should modernize the program to support broadband and eliminate the pernicious wireless-only 60-day non-usage rule.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,

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Enclosures

cc: Rebekah Goodheart

EXHIBIT

Lifeline Connects Coalition
Lifeline Modernization Principles

1. Minimum Service Standards Must Not Jeopardize the No Cost to Consumer ("Free") Service Offerings Relied on by 11 Million Lifeline Subscribers Today

- Competition not regulation will drive value to consumers
- Consumers, not regulators, should pick winners and losers
- Minimum service standards should be limited to quality not quantity
- Affordability is the problem and co-pays are not the solution; co-pays failed in the SNAP and Medicaid programs and they would dramatically reduce the program participation rate in Lifeline because low-income consumers cannot afford them or do not have a means to pay them monthly

2. Streamlined Regulations and Processes Should Promote Participation, Competition and More Robust Service Offerings

- Service providers make a substantial up-front investment in subscribers and the longer they serve their subscribers on average, the more minutes or data they can provide to them
- A 12 month automatic benefit transfer freeze will limit waste, fraud and abuse while providing an incentive for ETCs to make more robust services available (e.g., smartphones), but always allow subscribers to switch providers at any time by first de-enrolling with their current provider
- The non-technology neutral, wireless-only requirement to make a voice call every 60 days has outlived its purpose and now imposes tremendous costs on providers and consumers with no offsetting benefit
- Technology and service provider neutral streamlined processing and shot clock procedures should be introduced for ETC designations, applications, appeals and compliance plans
- Current eligibility triggers fail to address the needs of Veterans; no one, two or three programs can adequately serve as a proxy for low-income Americans facing the daily challenge of maintaining access to affordable modern communications services

3. A National Verifier Solution Should Not Raise Program Costs or Compromise the Program's Success in Combatting Waste, Fraud and Abuse

- A national third-party verifier solution must not materially compromise the Lifeline program's remarkably low administration costs of 1.3% and improper payment rate of less than 0.44%
- USAC and CA Verifier recertification failure rates would upend business models and extract value from consumers, if imposed nationally on all ETCs
- A hybrid approach that leverages a variety of trusted third-party verification solutions can effectively address real and perceived waste, fraud and abuse, while keeping program administration costs low and accuracy high
- Real-time enrollment and distribution solutions are essential to preserving the dignity of low-income consumers and to the success of the program
- Vouchers or other portable benefit mechanisms would require costly investments in bureaucracy and infrastructure, expose the program to greater risk of fraud and inhibit providers' ability to offer more robust service offerings

How would paying a monthly fee for your Lifeline service impact you?

access WIRELESS
A government-funded Lifeline Assistance Program

I Could Not Afford a Monthly Fee

I have no other phone so I use my Lifeline service for doctors' appointments, seeking employment, and family calls.

MICHELLE F.

I Don't Have Extra Cash

This is the only phone I have, so I use it for jobs and so I can be contacted by school for my son. I struggle to pay my bills and don't really have the extra cash to pay for minutes.

JARED P.

Paying is Not an Option

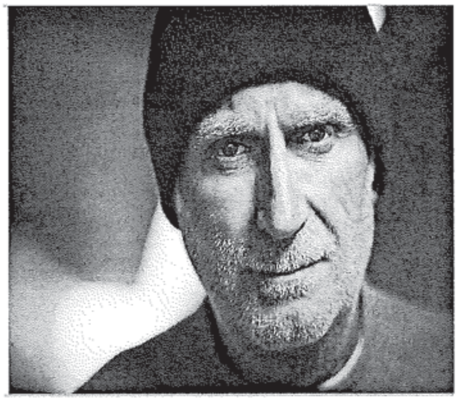
I use my Lifeline service for work and to keep in contact with the kids while at work. I do not make enough money to cover the utilities and rent, so paying a phone bill is not an option.

ADRIANNE C.

I May Be Without A Phone

There will be times when I don't have extra money left over to pay a Lifeline fee and I may be without a phone for a period of time.

RAENEISHA K.



I'm Homeless

I'm homeless. I do not have a bank account or consistent income for a monthly Lifeline fee.

JENNIFER H.

A Fee Would Be Devastating

I am working full-time, but have to support myself and my adult daughter who has no income, on less than $20,000 yearly gross salary. My cell phone is the only phone I have. I use my minutes only for important calls, not casual conversations.

JULIE E.

I Wouldn't Have a Phone

I would not have a phone because I don't have a means to pay for it.

ZACHARY T.

I'm Disabled

All of my income goes to rent and food. I'm disabled so I can't just make up for an additional bill.

DEREK K.

I'm a Single Mother of Two

I can't afford a monthly phone payment.

JESSICA M.

Having a Free Lifeline Phone Helps

I am disabled and live on a fixed income. It is very difficult month-to-month to make ends meet as is.

PAMELA M.

I Live Paycheck to Paycheck

I use my phone to keep my job and get rides. I live paycheck-to-paycheck and take the bus and the cost went up and get part of my food from the food pantry. I do not have a bank account.

MARLENE E.

77% of respondents do not have a bank account or a credit/debit card.

58% of respondents stated they have inconsistent income and live paycheck-to-paycheck.

31% of respondents do not have access to reliable transportation.